

CCS SS HS HCS HB 679 & 396 -- FOSTER CARE

This bill makes numerous revisions to laws relating to protective services for children and foster care.

CHILD ABUSE AND NEGLECT REPORTS

The bill:

(1) Changes the standard for including an individual on the child abuse and neglect central registry from probable cause to believe the individual committed child abuse or neglect to a finding by the Division of Family Services that there is a preponderance of evidence that the individual committed child abuse or neglect;

(2) Prohibits mandated reporters from making reports of child abuse and neglect anonymously, except for school personnel, who are only required to disclose their classification as a mandatory reporter. All other reporters may remain anonymous;

(3) Requires the division to use a structured decision-making model to classify all reports made to the child abuse and neglect hotline, giving priority to ensuring the well-being and safety of the child;

(4) Requires the names of individuals placed on the central registry before August 28, 2003, to remain on the registry for the duration of the time required in Section 210.152, RSMo;

(5) Reduces the amount of time the division must keep an unsubstantiated report of child abuse made by a mandated reporter from 10 to five years;

(6) Adds Christian Science practitioners to the definition of "minister" for purposes of reporting child abuse and neglect; and

(7) Requires biological parents, foster parents, guardians ad litem, and court-appointed special advocates to be notified of all family assessment team meetings.

COURT PROCEEDINGS

The bill:

(1) Requires the guardian ad litem and court-appointed special advocate volunteer to be informed of and have the right to attend all meetings involving the child upon appointment by the court. The guardian ad litem is required to advocate for timely court hearings to achieve permanency for the child as soon as possible;

(2) Requires that the questioning of a child who is in custody because of delinquency or a criminal violation cease if the child wishes to have a parent, guardian, or attorney present during the questioning. Interrogations or interviews of children taken into custody based on allegations of child abuse must be audiotaped, videotaped, or digitally recorded whenever possible, except for good cause shown based on the best interests of the child. Failure to comply with the recording requirement will render statements made by the child inadmissible in future judicial proceedings;

(3) Requires the court to grant a change of judge, a change of venue, or both upon the motion of a child or the child's parent;

(4) Requires a status conference to be held within three days of a child being taken into custody. If requested at the status hearing, a protective custody hearing must be held within 14 days of the request. An adjudication must be held no later than 60 days after the child has been taken into custody; and if at that time the court determines there is sufficient cause for the child to remain in the state's custody, the court will conduct a dispositional review no later than 90 days after the child has been taken into custody. The court must then conduct review hearings every 90 to 120 days during the first year and at least every six months after the first year;

(5) Makes juvenile court proceedings involving children or persons aged 17 who are in need of care and treatment and cases involving termination of parental rights public, except for adoption cases. The proceedings are allowed to be closed in certain situations. The general public is excluded during the testimony of a child or victim. The provisions of this section apply to proceedings initiated on or after August 28, 2003; and

(6) Requires all court records to be closed until the 72-hour hearing and requires that they are open after that, unless specifically closed. Pleadings and orders, other than confidential files and those specifically closed, are open to the general public. The identity of the victim and all references to the identity of the victim must be redacted from all records made available to the public prior to their disclosure. The court is allowed to enter an order to destroy social histories, records, and information, other than the official court file, and to seal the official court file and peace officer records after the child reaches the age of 17. The provisions of this section apply to proceedings initiated on or before August 28, 2003.

BACKGROUND CHECKS AND FINGERPRINTING

The bill:

(1) Allows the Division of Family Services or juvenile office to request a name-based criminal history check when an emergency placement of a child must be made and requires the division or juvenile office to determine whether any person over the age of 18 living in the household is listed on the child abuse and neglect central registry;

(2) Requires the division to conduct a search for full orders of protection for anyone seeking a foster parent license. The applicant and any adult in the applicant's household must also submit two sets of fingerprints for a criminal background check;

(3) Requires persons employed by a school after January 1, 2004, and those employed for less than two years with negative history in their personnel file to have a criminal background check before having any unsupervised contact with a child. All individuals who must submit to the criminal background check must submit to a Federal Bureau of Investigation background check and register with the Family Care Safety Registry;

(4) Requires the Department of Social Services to determine whether an applicant for a license to operate a school bus is listed on the child abuse and neglect central registry. The applicant is required to submit fingerprints to search state and federal criminal history repositories and to pay the fees for the criminal history checks;

(5) Adds the Sexual Offender Registry to the list of registries included in the Family Care Safety Registry and removes the expiration date on the registry;

(6) Requires law enforcement agencies and court clerks to submit certain criminal arrest, charge, and disposition information to the central repository within 15 days of disposition for purposes of maintaining complete and accurate criminal history information;

(7) Requires criminal history and identification records obtained from the central repository to be used only for the purpose for which they were obtained and allows the individual who has a record to challenge the accuracy of the criminal history record;

(8) Allows a qualified entity to obtain a criminal record review of a provider from the State Highway Patrol by furnishing the information on forms that are approved by the patrol. If an authorized state agency agrees to process state and national criminal records, it may assess a fee; and

(9) Allows specified state agencies to require applicants to

submit fingerprints for a criminal history record check and requires the fees for the check to be paid by the applicant or in a manner prescribed by the patrol.

FOSTER CARE AND PLACEMENT OF CHILDREN

The bill:

(1) Requires the Division of Family Services to provide standards and training for prospective foster parents, as well as performance-based criteria for licensed foster parents;

(2) Requires the division to notify parents when their child is placed in foster care, except when harm or danger to the child is imminent;

(3) Prohibits the removal of children from school for placement in foster care without a court order specifying that the child will be removed from school;

(4) Requires the division to hold a team meeting immediately after the 72-hour status conference and additional meetings prior to taking any action relating to the placement of a child in its custody;

(5) Requires the division to place a child with relatives if the court has determined that the placement is not contrary to the best interests of the child. The court must make specific findings on the record detailing why placement with a relative is not in the best interests of the child;

(6) Specifies that the age of a relative may not be the only factor considered in determining whether to place the child with that relative. The bill also requires the division to comply with the Federal Indian Child Welfare Act in placing Native American children;

(7) Allows parents to temporarily place a child with another person, while retaining the right to supervise the care of the child and resume custody, and allows a parent to use a power of attorney to delegate his or her powers regarding care or custody of a minor child to another person for a period of up to one year;

(8) Requires that all information provided at a meeting or hearing relating to the removal of a child from the child's home be confidential, except that a party or parent may waive confidentiality for himself or herself, and that no one may be required to sign a confidentiality agreement prior to testifying or providing information at the meeting. Hearings and meetings

held regarding the removal of a child from the child's home may be recorded by the child, parent, or any party. Information contained in the recording is not considered confidential after the 72-hour status conference, to the extent that the information is not otherwise privileged, unless the court enters an order prohibiting the disclosure of the information; and

(9) Requires the Department of Social Services to seek Title IV-E waivers from the Department of Health and Senior Services and requires the department to take the necessary steps to qualify the state for any federal block grant money available for foster care and adoption assistance.

PRIVATIZATION OF SERVICES FOR CHILDREN

The bill:

(1) Requires the Division of Family Services to contract with providers of children's services through a competitive bid process to provide all services except for hotline, initial investigation, and initial family assessments. The providers must have a proven record of providing child welfare services in the state or the ability to provide a range of services. All contracts entered into by the division must be in accordance with federal law and must not result in a loss of federal funding. The bill sets goals for the amount of direct services for children to be provided by private providers; and

(2) Requires the division to submit a report to the General Assembly by January 15, 2006, and each January 15 through 2008, which contains specified details about the privatization of direct services for children, including information and recommendations from contracting providers. The bill also establishes the goal of obtaining accreditation within five years of the effective date of the section.

PATERNITY

The bill:

(1) Provides that lack of knowledge of pregnancy does not excuse a man's failure to file a paternity action or to file with the Putative Father Registry;

(2) Requires a \$50 filing fee for adoption petitions, to be used to fund the registry;

(3) Requires a search of the Missouri registry and the putative father registry of another state, if the child was born in another state in adoption cases where the putative father is

unknown. A father who is discovered as a result of the search must be served with the adoption petition;

(4) States that a man who has sexual intercourse with a woman is deemed to be on legal notice that a child may be conceived as a result and specifies that the man is entitled to all legal rights and obligations as a result; and

(5) Requires the Division of Family Services to conduct a diligent search for the natural parents of a child who is in the custody of the division when the parents' identity or location is unknown.

MENTAL HEALTH

The bill:

(1) Requires the Department of Mental Health to develop, implement, and administer a comprehensive children's mental health service system;

(2) Adds child-serving agencies with the comprehensive children's mental health service system to the definition of "mental health services" for the purpose of defining services for the Medicaid Program. The bill requires the department, in collaboration with the Department of Social Services, to establish the definition and criteria for the designation of a community-based service;

(3) Requires the Department of Social Services to look at children in its custody and determine which ones are there solely because of a mental health issue. These children may be returned to their families, and the Department of Mental Health must provide necessary services. The Department of Social Services is to be billed for the cost of care by the Department of Mental Health;

(4) Requires the departments of Mental Health and Social Services to prepare a plan to address the need for mental health services for children who are in the custody of the state because of their need for mental health services and for children and persons age 17 who are determined by the court to need mental health services;

(5) Allows the means test of the Department of Mental Health to be waived for a child in need of mental health services in order to avoid transfer of custody to the Division of Family Services;

(6) Requires the Department of Social Services, in conjunction with the Department of Mental Health, to apply to the United

States Department of Health and Human Services for waivers to provide services for children, including community-based services; and

(7) Makes revisions to the employee disqualification list of the Department of Mental Health.

REPORTS

The bill:

(1) Requires the Children's Juvenile Justice Task Force established in accordance with federal law to conduct an independent review of the policies and procedures of state and local child protective services agencies and to conduct reviews of specific cases, when appropriate, to evaluate the extent to which agencies are effectively discharging their responsibilities;

(2) Requires the Department of Social Services to submit an annual statistical report regarding the number of children receiving child protective services to the Governor and the General Assembly, beginning February 1, 2005; and

(3) Requires the Division of Family Services to identify all children in its custody who are receiving foster care services by January 1, 2004, and report to the General Assembly the type of foster care being provided and the status of all children.

MISCELLANEOUS PROVISIONS

The bill:

(1) Establishes the Office of Child Advocate for Children's Protection and Services within the Office of Administration;

(2) Designates specified provisions as the "Dominic James Memorial Foster Care Act of 2003";

(3) Requires the Division of Family Support to operate and maintain a full-time office in each county;

(4) Requires employees of the Division of Family Services who are involved with child protective services and who purposely, knowingly, and willingly violate a policy, rule, or state law that is related to the child abuse and neglect activities of the division to be dismissed if the violation results in serious physical injury or death. Juvenile officers or juvenile office employees who purposely, knowingly, and willingly act or neglect to act in a way that results in the serious physical injury or

death of a child must be dismissed pursuant to Supreme Court rules governing personnel;

(5) Allows children with special health care needs that would result in death or serious physical injury if not treated to participate in the MC+ for Kids Program without meeting the six-month uninsured requirement;

(6) Prohibits employees of the Division of Family Services and employees of public and charter schools from performing a strip search on students without the written permission of a parent or guardian;

(7) Requires an action to recover damages for injury or illness that resulted from child sexual abuse to be commenced within 12 years of the date the plaintiff reached the age of 18 or within three years of the date the plaintiff discovered or reasonably should have discovered that the illness or injury resulted from child sexual abuse, whichever date is later;

(8) Removes the \$2 million aggregate cap on the special needs child adoption tax credit; and

(9) Revises provisions relating to the Missouri Family Trust.